

§ 252.33

46 CFR Ch. II (10–1–11 Edition)

DETERMINATION OF COUNTRY COST  
DIFFERENTIAL

[Year—1985; U.S. Atlantic—Gulf Coast; Foreign Country—  
Singapore]

Repair category	Foreign price	U.S. price
Drydocking and Underwater Repairs .....	\$89,840	\$300,245
Tank Cleaning and Coating .....	70,160	77,080
Boiler Repairs .....	10,545	47,550
Machinery Repairs .....	22,505	108,165
Hull and Deck Repairs .....	33,500	99,370
Piping System .....	71,905	215,830
Electrical Repairs .....	12,340	36,660
Exterior Painting .....	5,035	30,640
Interior Painting .....	390	1,470
Estimate Totals .....	316,220	917,010

Foreign/U.S. Price Ratio—34%.

Country Cost Differential (100–34)—66%.

(3) *Distribution of repairs.* The distribution of repairs refers to the countries where M&R work was performed on the vessels of the foreign-flag competitor. When data on the repairing practices are obtained directly from

the foreign competitor, they shall be used. If information about such practices is unavailable—or only partially available—data, published by the classification societies and Lloyd's Voyage Record, reporting the dates and localities of drydocking and completion of the various types of vessel surveys, shall be used for determining the geographical distribution of the unknown repairing practices. If such information is unavailable, repairing practices shall be determined on the basis of the industry as a whole.

(4) *M&R subsidy rate.* The U.S.-foreign cost differential for the foreign-flag competitor shall be determined by multiplying the percentage distribution of repairs for each country where repair work was performed by the country cost differential for that country, and by adding the resulting weighted cost differential for all countries. For example:

ABC BULK COMPANY, INC., MAINTENANCE AND REPAIR SUBSIDY RATE

Principal competitor	Distribution of repairs		Country cost differential percent (2)	Weighted cost differentials _____ (1) × (2) (percent) (3)
	Country (1)	Percent		
Liberia .....	U.K. ....	15	19	2.9
	Japan .....	20	36	7.2
	Singapore .....	65	57	37.1
Subsidy rate .....	.....	.....	.....	47

(c) *Data submission requirement.* The operator is required to submit a Subsidy Repair Summary (Form MA-140) quarterly, in accordance with 46 CFR part 272.

[51 FR 40426, Nov. 7, 1986, as amended at 54 FR 5086, Feb. 1, 1989; 58 FR 17349, Apr. 2, 1993; 61 FR 32706, June 25, 1996]

§ 252.33 Hull and machinery insurance.

(a) *Subsidy items.* The fair and reasonable net premium costs (including stamp taxes) of hull and machinery, increased value, excess general average, salvage, and collision liability insurance against risks and liabilities covered under the terms and conditions of policies approved as to form and coverage by MARAD, less lay-up returns, shall be eligible for subsidy and used for determining the U.S.-foreign cost

differential. Port risk premiums are eligible for subsidy but not for determining the U.S.-foreign cost differential.

(b) *U.S.-foreign cost differential.* A U.S.-foreign cost differential shall be calculated for the service. Due to the difficulty of comparing forms and costs of hull and machinery insurance coverages, the following assumptions shall be used for estimating the composite premium cost of the foreign-flag competitor.

(1) *Coverage.* The foreign competitive vessels have the same types and amounts of insurance coverages and deductible averages as the subsidized vessels.

(2) *Premium rate.* The foreign competitive vessels are insured in the British market and the rate for such vessels is the same as the British market rate for

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the subsidized vessels. If the operator carries all of its insurance in the American market, the American market rate shall be assumed to be the same as the British market rate.

(3) *Repairs.* Insurable repairs of the foreign competitive vessels are performed in the same countries and in the same distribution as non-insurable repairs, and the cost differential for such repairs shall be the same as the maintenance and repair percentage differential.

(4) *Particular average.* The percentage of particular average repair claims for the foreign competitive vessels is the same as the percentage of particular average repair claims for the subsidized vessels. The particular average portion of the premium cost for the subsidized vessels shall be determined as follows:

(i) *Percentage.* The particular average portion of the premium cost shall be determined by applying a percentage to the hull and machinery premium cost after deducting the estimated total loss premium. The percentage is based on insured claims experience. The percentage shall be determined by dividing the total of underwriter's absorptions for particular average domestic repair claims paid and estimated by the total of underwriter's absorptions for all claims paid and estimated (excluding total loss and constructive total loss claims) under the hull and machinery portion of the insurance coverage, except that such percentage shall not exceed eighty-five (85) percent. The percentage is based on the claims experience of the subsidized vessels for the five (5) calendar year period preceding the subsidized year. For subsidized operators that do not have five years of claims experience, the average percentage of particular average domestic repair claims for all similar subsidized vessels shall be used unless the operator can submit data to substantiate its own claims cost experience on similar vessels.

(ii) *Data submission requirement.* The operator shall submit the five year claims experience, invoices showing net premium costs and coverages for the subsidized year, and lay-up returns for the previous year to the Director, Office of Ship Operating Costs, not

later than sixty (60) days after the close of each calendar year.

(c) *Calculation.* In calculating the subsidized premium cost, the following steps shall be taken:

(1) The particular average portion of the premium cost shall be adjusted in order to give effect to the repair cost differential for the foreign competitive vessels by applying the complement of the maintenance and repairs percentage cost differential (100 percent minus the differential) to the particular average portion of the premium cost. The adjusted particular average foreign premium cost shall be added to the net premium cost excluding the particular average portion to determine the composite foreign premium cost.

(2) The foreign premium cost shall be subtracted from the operator's total premium cost to determine the difference in dollars. The percentage differential is determined by dividing the dollar difference by the operator's total premium cost. An example calculation is included in Table 2.

(3) The net premium cost of the subsidized vessels shall be divided by the number of days in the calendar year and the resultant daily insurance cost shall be multiplied by the U.S.-foreign cost differential percentage applicable to the most recent year to determine the daily amount of subsidy for hull and machinery insurance.

TABLE 2—ABC BULK COMPANY, INC., U.S./FOREIGN COST DIFFERENTIAL FOR HULL AND MACHINERY INSURANCE—1985

1. Foreign Premium Cost:		
A. Hull and Machinery,		
Total coverage .....	\$92,741,996	
Average Premium Rate		
in British Market .....	1.00966%	
Premium Cost in		
British Market .....		\$936,379
(Estimated Total Loss		
Premium		
\$92,741,966 @		
.46500% <sup>1</sup> .....	431,250)	
B. Increased Value, Total		
Coverage .....	1,083,325	
Average Premium Rate		
in British Market .....	.32550%	
Premium Cost in		
British Market .....		3,526
C. Excess Liability, Total		
Coverage .....		None
D. Total Premium Cost if		
Insured 100% in British		
Market .....		939,905

TABLE 2—ABC BULK COMPANY, INC., U.S./FOREIGN COST DIFFERENTIAL FOR HULL AND MACHINERY INSURANCE—1985—Continued

E. Deduct Particular Average Portion: \$936,379 Less \$431,250=		
\$505,129 × 62% <sup>2</sup> .....		313,180
F. Net Premium Cost Exclusive of Particular Average .....		626,725
G. Particular Average Adjustment .....	Worldwide service	
P/A Portion of Premium Cost .....	\$313,180	
M&R Subsidy Rate Complement <sup>3</sup> .....	84.48%	
Adjusted P/A Foreign Premium Cost .....	264,574	
Add: Net Premium Cost (Excluding P/A) .....	626,725	
2. Foreign Premium Cost .....	891,299	
3. Total Premium Cost to Subsidized Operators .....	1,068,998	
4. Differential in Dollars <sup>4</sup> .....	177,699	
5. U.S.–Foreign Cost Differential <sup>5</sup> .....	16.62%	

<sup>1</sup> Estimated gross total loss rate adjusted for broker's discounts, policy tax and other costs, as necessary.

<sup>2</sup> Percentage of particular average.

<sup>3</sup> 100% minus M&R subsidy rate of the same calendar year.

<sup>4</sup> Line 3 less line 2.

<sup>5</sup> Line 4 divided by line 3.

#### § 252.34 Protection and indemnity insurance.

(a) *Subsidy items.* Items eligible for determination of subsidizable costs and the U.S.-foreign cost differential are:

(1) *Premiums.* The fair and reasonable net premium costs (including stamp taxes) of protection and indemnity, excess insurance, second seamen's insurance, "tovalop" or other forms of pollution insurance, bumbershoot (only that portion identified as applicable to P&I insurance), cargo liability if excluded from the primary policy, supplemental calls against liabilities covered under the terms and conditions of policies approved as to form and coverage by MARAD, less lay-up return premiums, shall be eligible for subsidy and used for determining the U.S.-foreign cost differential.

(2) *Deductibles.* The fair and reasonable cost of crew claims paid by and pending with the operator under the deductible provision of the protection and indemnity insurance policy approved as to form and coverage by MARAD, to the extent that such cost

would have been paid by the insurance underwriter under the terms of the policy, except for the fact that it did not exceed the deductible provision of the policy, shall be eligible for subsidy. For subsidy purposes, the deductible absorption shall not exceed \$50,000 for each accident or occurrence, provided however, that benefits paid on unearned wages, if excluded from coverage under the protection and indemnity insurance policy, shall be eligible, notwithstanding that the deductible provisions of the policy may be exceeded.

(b) *Assumptions made in calculation.* For purposes of determining subsidy for protection and indemnity insurance, it shall be assumed that the cost differential between the subsidized vessels and the foreign competitive vessels is limited to those portions of premium costs and deductible absorptions which are related to crew liability and that the cost of all other liabilities is the same for both the subsidized vessels and the foreign competitive vessels.

(c) *Calculation.* The following is the method of calculating the U.S.-foreign cost differential for premiums:

(1) *General.* A differential shall be calculated for the service of the vessels. Since the premium cost for all other liabilities is assumed to be the same for both the U.S. and foreign competitive vessels, the calculation of the differential for protection and indemnity insurance premiums is in effect based on the difference between U.S. and foreign premium costs for crew liabilities. Premium costs are determined in costs per gross registered ton (GRT).

(2) *Reporting requirement.* The operator shall submit the total premium cost for the subsidized year, plus any supplemental calls and lay-up return premiums not previously reported, to the Director, Office of Ship Operating Costs, not later than 60 days after the beginning of such year. The data shall be supported by invoices from the insurance underwriter.

(3) *U.S. crew liability cost.* the crew liability portion of the total premium cost shall be determined by applying a percentage to the total premium cost based on five (5) years of claims experience for the five years commencing six